

[Unapproved and Subject to Change]
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION
MINUTES OF MEETING, Public Session

January 10, 2008

Call To Order: Chairman Ross Johnson called the meeting to order at 10:00 a.m., at 428 J Street, Eighth Floor, Sacramento, California. Chairman Johnson, Commissioners Timothy A. Hodson, Gene Huguenin, Bob Leidigh and Ray Remy were present.

Item #1 - Public Comment. This portion of the meeting is reserved for comment on items not on the agenda. Under the Bagley-Keene Open Meeting Act, the Commission cannot act on items raised during public comment, but may respond briefly to statements made or questions posed, request clarification, or refer the item to staff.

Chairman Johnson asked if there was anyone in the audience with comments to make to the Commission. There was no public comment.

Item #2 - Approval of the December 13, 2007, Commission meeting minutes.

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve the December 13, 2007, Commission meeting minutes as submitted.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #3 - Matter of Latino Builders Industry Association, FPPC No. 04/250. Staff: Senior Commission Counsel Melodee A. Mathay and Investigator III Sandra Buckner. Respondent Latino Builders Industry Association, a business league organization located in San Diego, was the true source of eleven campaign contributions, totaling \$2,600, made to candidates for city councils, school district boards, and a State Assembly seat between November 2001 and October 2004. The contributions were made in the name of Respondent's employees, business associates and/or their family members, in violation of Government Code Section 84301 (11 counts).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of eleven counts and a \$55,000 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #4 - In In the Matter of Galen Duane Chamberlain, Duane Chamberlain for Supervisor and Shirley Stover, FPPC No. 06/795. Staff: Commission Counsel Galena West and Accounting Specialist Luz Bonetti. Respondent Galen Duane Chamberlain was a successful candidate for the Yolo County Board of Supervisors in the November 2004 General Election. Respondent Duane Chamberlain for Supervisor (the "Committee") is controlled by Respondent Chamberlain and Respondent Chamberlain is the treasurer.

Respondent Shirley Stover was, at all times relevant, the Committee's assistant treasurer. Respondents failed to deposit contributions made by Respondent Chamberlain's sole proprietorship, into a single, designated campaign bank account prior to expenditure, in violation of Section 85201, subdivisions (c) and (e) of the Government Code (1 count) and made cash expenditures of \$100 or more, in violation of Section 84300, subdivision (b) of the Government Code (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of two counts and a \$5,000 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.

The motion passed 5-0.

Item #5 - In the Matter of Hector Delgado and Friends of Hector Delgado, FPPC No. 03/133. Staff: Commission Counsel Bridgette Longero and Investigator III Leon Nurse-Williams. Respondent Hector Delgado was elected to the South El Monte City Council on March 4, 2003. Respondent Friends of Hector Delgado is his controlled committee. Respondent Hector Delgado served as treasurer. Respondents failed to disclose the source of a contribution of \$100 or more, in a post-election semi-annual campaign statement, for the reporting period February 16, 2003, through June 30, 2003, in violation of Section 84211, subdivision (f) of the Government Code (1 count), and failed to maintain the detailed accounts, records, bills and receipts necessary to prepare the post-election semi-annual campaign statement, for the reporting period February 16, 2003, through June 30, 2003, to establish that the campaign statement was properly filed, and to comply with the campaign reporting provisions of the Act, in violation of Section 84104 of the Government Code (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$2,500 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.

The motion passed 5-0.

Item #6 - In the Matter of T-Bird Restaurants Committee Opposing Proposition 72 and Mikkil Christensen, FPPC No. 05/806. Staff: Commission Counsel Galena West and Investigator II Elaine Olmos-Flores. T-Bird Restaurant Group, Inc. ("T-Bird") is a California corporation located in La Jolla, California. On October 14, 2004, T-Bird received \$2,000 contributions from 57 of its 60 franchise restaurants. The \$114,000 collected was then contributed the next day to Californians Against Government Run Healthcare, A Committee Against Proposition 72 for the November 2, 2004 election. T-Bird registered as a sponsored, primarily formed ballot measure committee on October 31, 2005, under the name T-Bird Restaurants Committee Opposing Proposition 72 with Mikkil Christensen listed at all times as the treasurer. Respondents failed to file a statement of organization within 10 days of qualifying as a committee, in violation of Section 84101, subdivision (a) of the Government Code (1 count), failed to timely file a pre-election campaign statement, in violation of Government Code Sections 84200.5 and

84200.7, subdivision (b) (1 count), and failed to disclose 32 contributions of \$1,000 or more within 24 hours of receipt in an online campaign report, in violation of Section 85309, subdivision (b) (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of three counts and a \$6,000 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #7 - In the Matter of Elizabeth Dietz, FPPC No. 07/752. Staff: Political Reform Consultant Teri Rindahl. Elizabeth Dietz, Registered Nursing Board member, failed to timely file her 2006 annual statement of economic interests in violation of Government Code Section 87300 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$200 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #8 - In the Matter of Timothy D'Orazio, FPPC No. 07/759. Staff: Political Reform Consultant Teri Rindahl. Timothy D'Orazio, Professional Engineers & Land Surveyors Board member, failed to timely file his 2006 annual statement of economic interests in violation of Government Code Section 87300 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$200 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #9 - In the Matter of Rex Van Valkenburg, FPPC No. 07/453. Staff: Political Reform Consultant Wayne Imberi. Rex Van Valkenburg, West Sacramento Redevelopment Project Area Committee member, failed to timely file his 2006 annual statement of economic interests in violation of Government Code Section 87300 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$200 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #10 - Failure to Timely File Major Donor Campaign Statements. Chief Investigator Sue Straine and Political Reform Consultant Sandy Johnson. The following

entities have entered into a stipulation for failing to file major donor campaign statements that were due during calendar years 2006 and 2007, in violation of Government Code Section 84200:

a. In the Matter of Erickson-Hall Construction Co., FPPC No. 07/0704.

Erickson-Hall Construction Co., of Escondido, failed to timely file two semi-annual campaign statements disclosing contributions totaling \$93,750.00 (2 counts).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of two counts and a \$1,600 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

b. In the Matter of Thomas D. Hormel Trust, FPPC No. 07/0716. Thomas D. Hormel Trust, of Pacific Palisades, failed to timely file two semi-annual campaign statements disclosing contributions totaling \$35,000.00 (2 counts).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of two counts and a \$1,600 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

c. In the Matter of Pfizer, Inc., FPPC No. 07/0745. Pfizer, Inc. of New York, New York, failed to timely file a semi-annual campaign statement disclosing contributions totaling \$64,769 in 2007 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$1,695.38 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

d. In the Matter of Barry Schuler, FPPC No. 07/0747. Barry Schuler, of Napa, failed to file two semi-annual campaign statements disclosing contributions totaling \$40,700 in 2006 (2 counts).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of two counts and an \$800 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson.
The motion passed 5-0.

Item #11 - Failure to Timely File Late Contribution Reports – Proactive Program.

Chief Investigator Sue Straine and Political Reform Consultant Sandy Johnson.

The following persons have entered into a stipulation for failure to file a late contribution report in either 2004 or 2006, in violation of Government Code Section 84203:

- a. In the Matter of Alfred G. Montna (Montna Family Trust, Montna Farms Affiliated Entities), FPPC No. 07/0642.** Alfred G. Montna (Montna Family Trust, Montna Farms Affiliated Entities), of Yuba City, failed to timely disclose a late contribution totaling \$10,000 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$1,500 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

- b. In the Matter of Brooke Garber Neidich, FPPC No. 07/0652.** Brooke Garber Neidich of New York, New York, failed to timely disclose a late contribution totaling \$10,000 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$1,500 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

- c. In the Matter of Erickson-Hall Construction Co., FPPC No. 07/0749.** Erickson-Hall Construction Co., of Escondido, failed to timely disclose a late contribution totaling \$10,000 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$1,500 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

- d. In the Matter of Organic Consumers Association, FPPC No. 07/0334.** Organic Consumers Association, of Finland, Minnesota, failed to timely disclose late contributions totaling \$16,000 (4 counts).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of four counts and a \$2,400 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

- e. **In the Matter of Thomas D. Hormel Trust, FPPC No. 07/0715.** Thomas D. Hormel Trust, of Pacific Palisades, failed to timely disclose a late contribution totaling \$10,000 (1 count).

Moved by Commissioner Remy and seconded by Commissioner Hodson to approve a Stipulation, Decision and Order finding a violation of one count and a \$1,500 monetary penalty.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

Item #12 - Prenotice Discussion of Proposed Amendments to Regulation 18997 – Audits of Campaign Statements of CalPERS Board Candidates. Staff: Assistant General Counsel John Wallace and General Counsel Scott Hallabrin. The Act was amended in 1998 to require candidates for the CalPERS board to file campaign statements with the Secretary of State and the Commission to develop a method for selecting CalPERS candidates for audits. In 2000, the Commission implemented an audit selection method by adopting Regulation 18997, which included a statement that the Commission would revisit the audit thresholds after collecting data on CalPERS fundraising. Based on election statistics gathered since the Commission adopted the regulation, staff proposed amendments to the regulation to change the audit selection method and asked the Commission to approve publication of notice for adoption of the amendments at the Commission's March meeting.

Moved by Commissioner Remy and seconded by Commissioner Huguenin to approve publication of notice for adoption of the proposed amendments as recommended by staff. AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

Item #13 - Prenotice Discussion of Proposed Amendments to Regulation 18735 – Statement of Economic Interests for Previously Designated Employees. Staff: Commission Counsel Brian G. Lau and General Counsel Scott Hallabrin. Staff proposed clarifying the reporting requirements for a designated employee transferring to a designated position as the head of the agency and a designated employee whose disclosure category is amended between filing dates. Staff also proposed consolidating the reporting requirements for certain Legislative staff members who are elected to the Legislature and asked the Commission to approve publication of notice for adoption of the amendments at the Commission's March meeting.

Mr. Lau informed the Commission that the Agenda inadvertently labeled this item "Campaign Statements" and that it should read "Statement of Economic Interests."

Moved by Commissioner Leidigh and seconded by Commissioner Huguenin to approve publication of notice for adoption of the amendments with staff requested to amend subdivision (d) to parallel the language in subdivision (a).

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

Item #14 - Prenotice Discussion of Proposed Amendments to Regulation 18360 - Complaint Procedure. Staff: General Counsel Scott Hallabrin. Staff proposed amendments to the Commission's rules governing the filing and processing of complaints alleging violations of the Political Reform Act.

Chairman Johnson asked if anyone in the audience had comments in support or in opposition to this item to please come forward.

Chuck Bell, of Bell McAndrews Hiltachk, stated he was representing himself, and had comments in support and in opposition. He also had several questions regarding formal and informal complaints and Enforcement procedures.

Deborah Kaplan, with Olson Hagel and Fishburn, who stated she was representing herself, had comments in opposition to this item, and concerns and questions regarding Enforcement issues.

After discussion among the Commissioners, a motion was made by Commissioner Leidigh that staff redraft the proposed amendments consistent with the Commissioners' comments for prenotice discussion at the February Commission meeting for final adoption at the April Commission meeting, with the understanding that a broader discussion of Enforcement matters would be held in March. The motion was seconded by Commissioner Huguenin.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

Item #15 - Legislative Report. Staff: Government Affairs Director Whitney Barazoto.

Chairman Johnson stated that the Legislative Report included recommendations for possible legislation the Commission might wish to sponsor.

The Commissioners asked to see drafts of proposed statutory language for legislation before approving a legislative proposal.

Item #16 - Litigation Report. Staff: General Counsel Scott Hallabrin. As submitted.

Item #17 - Executive Director's Report. Staff: Executive Director Michael B. Salerno.

Mr. Salerno advised his report included a proposed 2008 Commission Meeting Schedule and, if agreeable, should be adopted.

Chairman Huguenin inquired if a Staff Regulation Workload Calendar would be submitted for 2008, and Mr. Salerno advised that it was in the process of being completed.

Moved by Chairman Johnson and seconded by Commissioner Remy to adopt the 2008 Commission Meeting Schedule as proposed by the Executive Director.

AYES: Commissioners Remy, Huguenin, Leidigh, Hodson, and Chairman Johnson. The motion passed 5-0.

18. Chairman's Report. Chairman Ross Johnson.

Chairman Johnson announced that this year is exciting for the Commission with three statewide elections coming up, and he is looking forward to the new year. The workload already is picking up due to the upcoming elections, but, with the quality and dedication of staff, he knows we will continue to aggressively work to carry out the mission of the Commission.

Chairman Johnson adjourned open session at 12:01 p.m. and advised the Commission would immediately convene in closed session.

The Commission reconvened in open session at 12:37 p.m. Chairman Johnson advised no reportable action was taken in closed session, and adjourned the meeting at 12:38 p.m.

Dated: January 23, 2007

Respectfully submitted,

Beth Manwaring
Commission Assistant

Approved by:

Ross Johnson
Chairman